

## SENATE BILL No. 421

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-3-3.

**Synopsis:** Reimbursement of injured employee. Requires an employer to pay for reasonable travel expenses to and from the place of treatment of an injured employee, regardless of where the treatment is located. Computes mileage reimbursement from the location of the employer to the place of treatment or examination, or from the home of the employee to the place of treatment or examination, whichever is less.

**Effective:** July 1, 2001.

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January 18, 2001, read first time and referred to Committee on Pensions and Labor.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 421

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 22-3-3-4, AS AMENDED BY P.L.31-2000,  
2       SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2001]: Sec. 4. (a) After an injury and prior to an adjudication  
4       of permanent impairment, the employer shall furnish or cause to be  
5       furnished, free of charge to the employee, an attending physician for  
6       the treatment of his injuries, and in addition thereto such surgical,  
7       hospital and nursing services and supplies as the attending physician  
8       or the worker's compensation board may deem necessary. If the  
9       employee is requested or required by the employer to submit to  
10      treatment, ~~outside the county of employment,~~ the employer shall also  
11      pay the reasonable expense of travel **by the most convenient means**  
12      **to and from the place of the treatment,** food, and lodging necessary  
13      during the travel. ~~but If the travel is by automobile, the mileage paid~~  
14      **to the employee may not to** exceed the amount paid at the time of the  
15      travel by the state to its employees under the state travel policies and  
16      procedures established by the department of administration and  
17      approved by the state budget agency. **Mileage shall be computed**

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1 **from the location of the employer to the place of treatment or from**  
2 **the home of the employee to the place of treatment, whichever is**  
3 **less.** If the treatment or travel to or from the place of treatment causes  
4 a loss of working time to the employee, the employer shall reimburse  
5 the employee for the loss of wages using the basis of the employee's  
6 average daily wage.

7 (b) During the period of temporary total disability resulting from the  
8 injury, the employer shall furnish the physician services, and supplies,  
9 and the worker's compensation board may, on proper application of  
10 either party, require that treatment by the physician and services and  
11 supplies be furnished by or on behalf of the employer as the worker's  
12 compensation board may deem reasonably necessary.

13 (c) After an employee's injury has been adjudicated by agreement  
14 or award on the basis of permanent partial impairment and within the  
15 statutory period for review in such case as provided in section 27 of  
16 this chapter, the employer may continue to furnish a physician or  
17 surgeon and other medical services and supplies, and the worker's  
18 compensation board may within the statutory period for review as  
19 provided in section 27 of this chapter, on a proper application of either  
20 party, require that treatment by that physician and other medical  
21 services and supplies be furnished by and on behalf of the employer as  
22 the worker's compensation board may deem necessary to limit or  
23 reduce the amount and extent of the employee's impairment. The  
24 refusal of the employee to accept such services and supplies, when  
25 provided by or on behalf of the employer, shall bar the employee from  
26 all compensation otherwise payable during the period of the refusal,  
27 and his right to prosecute any proceeding under IC 22-3-2 through  
28 IC 22-3-6 shall be suspended and abated until the employee's refusal  
29 ceases. The employee must be served with a notice setting forth the  
30 consequences of the refusal under this section. The notice must be in  
31 a form prescribed by the worker's compensation board. No  
32 compensation for permanent total impairment, permanent partial  
33 impairment, permanent disfigurement, or death shall be paid or payable  
34 for that part or portion of the impairment, disfigurement, or death  
35 which is the result of the failure of the employee to accept the  
36 treatment, services, and supplies required under this section. However,  
37 an employer may at any time permit an employee to have treatment for  
38 his injuries by spiritual means or prayer in lieu of the physician or  
39 surgeon and other medical services and supplies required under this  
40 section.

41 (d) If, because of an emergency, or because of the employer's failure  
42 to provide an attending physician or surgical, hospital, or nursing

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1 services and supplies, or treatment by spiritual means or prayer, as  
 2 required by this section, or because of any other good reason, a  
 3 physician other than that provided by the employer treats the injured  
 4 employee during the period of the employee's temporary total  
 5 disability, or necessary and proper surgical, hospital, or nursing  
 6 services and supplies are procured within the period, the reasonable  
 7 cost of those services and supplies shall, subject to the approval of the  
 8 worker's compensation board, be paid by the employer.

9 (e) Regardless of when it occurs, where a compensable injury  
 10 results in the amputation of a body part, the enucleation of an eye, or  
 11 the loss of natural teeth, the employer shall furnish an appropriate  
 12 artificial member, braces, and prosthodontics. The cost of repairs to or  
 13 replacements for the artificial members, braces, or prosthodontics that  
 14 result from a compensable injury pursuant to a prior award and are  
 15 required due to either medical necessity or normal wear and tear,  
 16 determined according to the employee's individual use, but not abuse,  
 17 of the artificial member, braces, or prosthodontics, shall be paid from  
 18 the second injury fund upon order or award of the worker's  
 19 compensation board. The employee is not required to meet any other  
 20 requirement for admission to the second injury fund.

21 (f) If an accident arising out of and in the course of employment  
 22 after June 30, 1997, results in the loss of or damage to an artificial  
 23 member, a brace, an implant, eyeglasses, prosthodontics, or other  
 24 medically prescribed device, the employer shall repair the artificial  
 25 member, brace, implant, eyeglasses, prosthodontics, or other medically  
 26 prescribed device or furnish an identical or a reasonably equivalent  
 27 replacement.

28 (g) This section may not be construed to prohibit an agreement  
 29 between an employer and the employer's employees that has the  
 30 approval of the board and that binds the parties to:

- 31 (1) medical care furnished by health care providers selected by  
 32 agreement before or after injury; or
- 33 (2) the findings of a health care provider who was chosen by  
 34 agreement.

35 SECTION 2. IC 22-3-3-6 IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) After an injury and during the  
 37 period of claimed resulting disability or impairment, the employee, if  
 38 so requested by the employee's employer or ordered by the industrial  
 39 board, shall submit to an examination at reasonable times and places  
 40 by a duly qualified physician or surgeon designated and paid by the  
 41 employer or by order of the worker's compensation board. The  
 42 employee shall have the right to have present at any such examination

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any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to, or otherwise learned by, any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in the hearings provided for in IC 22-3-2 through IC 22-3-6, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in any way obstructs such examinations, the employee's right to compensation and his right to take or prosecute any proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the worker's compensation board the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the board.

(b) Any employer requesting an examination of any employee ~~residing within Indiana~~ shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the budget agency. **Mileage shall be computed from the location of the employer to the place of examination or from the home of the employee to the place of examination, whichever is less.** If such examination or travel to or from the place of examination causes ~~any~~ a loss of working time on the part of the employee, the employer shall reimburse the employee for such loss of wages upon the basis of the employee's average daily wage. When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel payable under this section shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. ~~No travel and other expense shall be paid for any travel and other expense required outside Indiana.~~

(c) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination if the employee so desires. In all cases where the examination is made by a physician or surgeon engaged by the employer and the injured employee has no

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1 physician or surgeon present at such examination, it shall be the duty  
2 of the physician or surgeon making the examination to deliver to the  
3 injured employee, or the employee's representative, a statement in  
4 writing of the conditions evidenced by such examination. The  
5 statement shall disclose all facts that are reported by such physician or  
6 surgeon to the employer. Such statement shall be furnished to the  
7 employee or the employee's representative, as soon as practicable, but  
8 not later than thirty (30) days before the time the case is set for hearing.  
9 The statement may be submitted by either party as evidence by that  
10 physician or surgeon at a hearing before the worker's compensation  
11 board if the statement meets the requirements of subsection (e). If such  
12 physician or surgeon fails or refuses to furnish the employee or the  
13 employee's representative with such statement thirty (30) days before  
14 the hearing, then the statement may not be submitted as evidence, and  
15 such physician or surgeon shall not be permitted to testify before the  
16 worker's compensation board as to any facts learned in such  
17 examination. All of the requirements of this subsection apply to all  
18 subsequent examinations requested by the employer.

19 (d) In all cases where an examination of an employee is made by a  
20 physician or surgeon engaged by the employee, and the employer has  
21 no physician or surgeon present at such examination, it shall be the  
22 duty of the physician or surgeon making the examination to deliver to  
23 the employer or the employer's representative a statement in writing of  
24 the conditions evidenced by such examination. The statement shall  
25 disclose all facts that are reported by such physician or surgeon to the  
26 employee. Such statement shall be furnished to the employer or the  
27 employer's representative as soon as practicable, but not later than  
28 thirty (30) days before the time the case is set for hearing. The  
29 statement may be submitted by either party as evidence by that  
30 physician or surgeon at a hearing before the worker's compensation  
31 board if the statement meets the requirements of subsection (e). If such  
32 physician or surgeon fails or refuses to furnish the employer, or the  
33 employer's representative, with such statement thirty (30) days before  
34 the hearing, then the statement may not be submitted as evidence, and  
35 such physician or surgeon shall not be permitted to testify before the  
36 industrial board as to any facts learned in such examination. All of the  
37 requirements of this subsection apply to all subsequent examinations  
38 made by a physician or surgeon engaged by the employee.

39 (e) All statements of physicians or surgeons required by this section,  
40 whether those engaged by employee or employer, shall contain the  
41 following information:

42 (1) The history of the injury, or claimed injury, as given by the

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1 patient.

2 (2) The diagnosis of the physician or surgeon concerning the  
3 patient's physical or mental condition.

4 (3) The opinion of the physician or surgeon concerning the causal  
5 relationship, if any, between the injury and the patient's physical  
6 or mental condition, including the physician's or surgeon's reasons  
7 for the opinion.

8 (4) The opinion of the physician or surgeon concerning whether  
9 the injury or claimed injury resulted in a disability or impairment  
10 and, if so, the opinion of the physician or surgeon concerning the  
11 extent of the disability or impairment and the reasons for the  
12 opinion.

13 (5) The original signature of the physician or surgeon.

14 Notwithstanding any hearsay objection, the worker's compensation  
15 board shall admit into evidence a statement that meets the requirements  
16 of this subsection unless the statement is ruled inadmissible on other  
17 grounds.

18 (f) Delivery of any statement required by this section may be made  
19 to the attorney or agent of the employer or employee and such action  
20 shall be construed as delivery to the employer or employee.

21 (g) Any party may object to a statement on the basis that the  
22 statement does not meet the requirements of subsection (e). The  
23 objecting party must give written notice to the party providing the  
24 statement and specify the basis for the objection. Notice of the  
25 objection must be given no later than twenty (20) days before the  
26 hearing. Failure to object as provided in this subsection precludes any  
27 further objection as to the adequacy of the statement under subsection  
28 (e).

29 (h) The employer upon proper application, or the worker's  
30 compensation board, shall have the right in any case of death to require  
31 an autopsy at the expense of the party requesting the same. If, after a  
32 hearing, the worker's compensation board orders an autopsy and such  
33 autopsy is refused by the surviving spouse or next of kin, then any  
34 claim for compensation on account of such death shall be suspended  
35 and abated during such refusal. The surviving spouse or dependent  
36 must be served with a notice setting forth the consequences of the  
37 refusal under this subsection. The notice must be in a form prescribed  
38 by the worker's compensation board. No autopsy, except one performed  
39 by or on the authority or order of the coroner in the discharge of the  
40 coroner's duties, shall be held in any case by any person, without notice  
41 first being given to the surviving spouse or next of kin, if they reside in  
42 Indiana or their whereabouts can reasonably be ascertained, of the time

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1 and place thereof, and reasonable time and opportunity given such  
2 surviving spouse or next of kin to have a representative or  
3 representatives present to witness same. However, if such notice is not  
4 given, all evidence obtained by such autopsy shall be suppressed on  
5 motion duly made to the worker's compensation board.

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